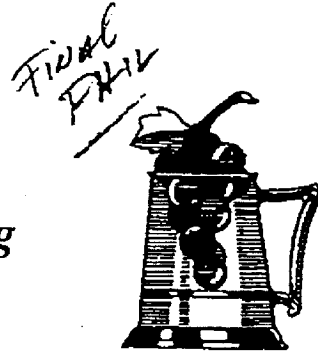


To: **Our Valued Retail Customers**

From: **Distributing
Distributing
Distributing**



Because both retailers and distributors/wholesalers are licensees of the Washington State Liquor Control Board, business practices that take place between wholesalers and retailers are regulated by that agency. Therefore, to eliminate any confusion that may exist in the marketplace between wholesalers and retailers on business practices that are covered by liquor laws and regulations, and, to further protect both licensees from violations and subsequent penalties for violations of those laws and regulations . . . we have prepared this Question & Answer memorandum covering regularly asked questions and situations that we face on a regular basis.

We hope this effort will insure consistency in the marketplace and eliminate confusion between both regulated businesses.

In short, liquor regulations (and potential violations) apply to both retailers and wholesalers. Not only is it a violation for wholesalers to "perform" certain regularly asked-for services, it is also a violation for retailers to "solicit" or "receive" any such illegal services. This is covered in liquor regulation WAC 314-12-140 (3).

Section (9) of that regulation also covers dual violations. It says, "If the Board finds in any instance that any licensee has violated this regulation, then all licensees involved shall be held equally responsible for such violation."

As your beer and wine distributor, we want to protect your liquor license and ours. We don't want to see either license put in jeopardy. Penalties can be severe. Monetary penalties can be imposed by the Board and violations can result in loss of license. Universal compliance with the regulatory and statutory policies mentioned in this memorandum will help protect both our businesses.

Please let us know if you have any specific questions on these laws and regulations or other business practices.

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PLAINTIFF'S EXHIBIT	
CASE NO.	CV04-0360P
EXHIBIT NO.	029

WBW-000543

Question: When can beer and wine distributors pick up beer, wine or non-alcohol products?

Answer: See WAC 314-20-070

(1) Beer in barrels, not in salable condition due to defective beer or defective container if the claim is made to the wholesaler within ten days of delivery. (Container must be defective.)

(2) Packaged beer, not in salable condition or overaged can be immediately replaced with "identical product." If identical product is not immediately available, a cash refund may be made.

(3) Packaged beer delivered in error may be returned to the wholesaler "if" discovered and corrected within eight days from delivery date. Any product picked up under these legal circumstances must be in its original container.

(4) Wine delivered in error must also be corrected within eight days. See WAC 314-24-210

(5) Important! Products which have been broken or damaged after the retailer has taken possession of those products, are the responsibility of the retailer. If a customer breaks or damages beer, wine or non-alcohol products, it is the retailer's loss. No compensation is allowed from the wholesaler.

Question: What product can be priced in the store by distributor personnel?

Answer: See WAC 314-12-140 (4) Distributor personnel can price their own product on shelves or displays in accordance with usual and common business practices and which are otherwise in compliance with the regulations. The Liquor Board considers pricing product in back stock rooms "something of value" to the retailer and therefore, not in compliance with regulations.

Question: What are the rules on the sale of draft beer equipment, installation and repair?

Answer: See WAC 314-12-140 (5), (6) & (7)

(1) Wholesalers can not sell you draft equipment or any equipment at less than the wholesaler's cost of acquisition.

(Equipment sales continued)

(2) Wholesalers can offer retailers a trade-in allowance for used equipment. However, it shall be no less or no more than the allowance for like equipment offered other retailers.

(3) In selling and buying equipment, wholesalers and retailers must keep complete records of each transaction on file for two years.

(4) Labor for installation of new equipment or lines will be charged at no less than the regular hourly salary rate of the wholesalers employee doing the work. Any other work or repair, other than the most minor adjustment or warranty work, will be charged at a pro-rated hourly rate based on the contract or salary rate for the employee doing the work.

(5) Sales of equipment, installation, or charges for repairs shall be on a "cash on delivery basis only."

Question: Can distributors move competitors products or displays at resets?

Answer: See WAC 314-12-140 (4) Yes, as long as reasonable notice is given to other interested distributors and such activity occurs during normal business hours or hours that are mutually agreed.

Question: Can wholesalers provide sales analysis of beer and wine product data to retailers for the purpose of proposing a schematic display?

Answer: See WAC 314-12-140 (4) Yes, as long as the original statistical sales data is voluntarily provided by the retailer at no charge.

Question: What can be printed on banners?

Answer: See WAC 314-52-113

(1) Banners that are classified as Point of Sale (POS) may be supplied to retailers at no charge as long as they only show product brand name, package or container size and price.

(2) If the banner goes beyond brand name, package size and price and provides a direct or indirect benefit to the retailer, then it must be sold to the retailer as a novelty item at fair market value.

(Banners continued)

(3) The only current exception is that "inside" a retail account, a banner may mention generic food items such as pizza, chicken, burgers, etc. or actually show pictures of such food items. These may be furnished at no charge to retailers. Such banners "outside" are considered something of value to the retailer and must be sold as novelty items.

(4) Retailers cannot add anything to free POS banners or signs such as "Grand Opening," "Taco Tuesday," etc. Blank banners that a retailer would add something on must be charged for at fair market value.

(5) Brand identified banners that are of no benefit to retailers are allowed as POS. An example would be a Coors banner that says "Welcome Home Troops."

(6) Records of novelty item sales must be kept on file.

Question: What items can be given to retail accounts?

Answer: See WAC 314-52-113 Only Point of Sale (POS) material and legal samples. POS items are those with no value to the retailer or customer.

Question: What are the guidelines for repack material?

Answer: See WAC 314-12-140 Repack materials must be sold to retailers at no less than the manufacturer's or wholesaler's acquisition cost.

Question: What items must be sold to retail accounts?

Answer: See WAC 314-52-080 Any novelty advertising items.

(1) Novelty advertising items include trays, lighters, pencils, coasters, menu cards, napkins, clocks, wearing apparel, mugs, glasses or other items that serve a purpose other than advertising.

(2) The price to the retailer shall be no less than the manufacturer's, importer's or wholesaler's cost of acquisition. Records shall be kept by wholesalers and retailers for two years.

(Novelty items continued)

(3) In no event shall credit be extended on purchase of these or similar items.

(4) Lighted brand signs which have a functional value such as illumination for cash registers or pool tables, must be sold to retailers at no less than manufacturer's or wholesaler's acquisition cost. See WAC 314-52-113

Question: Can distributors clean shelves or build or assemble shelving for retailers?

Answer: See RCW 66.28.010 (2) & WAC 314-12-140 (4)

No. Both the law (RCW) and regulation (WAC) are very clear by saying that wholesalers can only provide specific services for retailers. This includes building, rotating or restocking displays. Cleaning shelves or building and/or assembling shelving is considered providing "something of value" to the retailer and is prohibited. Once again, not only is it a violation for the wholesaler to "perform" such tasks, it is also a violation for a retailer to "solicit" or "receive" such services.

Question: What are the Liquor Board regulations, policies and procedures on NSF checks from retailers?

Answer: See WAC 314-12-140 (3)

(1) It is a violation for any retail licensee to refuse to immediately make good a dishonored check when advised by the wholesaler that the check was dishonored.

(2) It is also a violation for the retailer to purchase beer and/or wine from any source until the dishonored check has been made good in cash.

(3) Wholesalers are instructed to notify their area liquor agent when a retailer refuses to make immediate payment for a bad check. Liquor Board policy states, "A dishonored check is one potential violation; however, purchase of product prior to making good on the check creates another violation to include making it an aggravated case."

Question: What are the regulations regarding giant inflatable displays?

Answer: See WAC 314-52-113 (3).

(1) Giant inflatables, such as inflated beer cans, bottles, animals, etc. may be provided as point of sale by distributors as long as all retail licensees have equal opportunity to have a display.

(2) Novelty items can not be provided as part of the display.

(3) The display shall be removed if objected to by local officials or if the Board finds it is contrary to the public interest.

Question: What are the regulations on "Cold Patrol" or "Bud Girl" type promotions?

Answer: See WAC 314-52-113 (4).

(1) Animal mascots and costumed individuals representing manufacturers may be provided by wholesalers to promote their products as long as their activity is limited to socializing with customers.

(2) All retail licensees have an equal opportunity for such a promotion.

(3) Novelty items can not be provided by the individual and they can not purchase drinks.

Question: Under what circumstances can wholesalers entertain retailers?

Answer: See RCW 66.28.042, RCW 66.28.043 & WAC 314-12-135

(1) A manufacturer or wholesaler may provide food and beverages at a "business meeting" and local ground transportation to and from such meeting to licensed retailers or their employees.

(2) Wholesalers and manufacturers can also provide licensed retailers or their employees with tickets or admission fees to athletic events or other forms of entertainment "within the state of Washington" as long as an employee of the wholesaler or manufacturer accompanies the retailer to the event.

(Entertainment continued)

(3) Wholesalers and manufacturers can also provide food and beverages at such events and local ground transportation to and from such activities.

(4) Wholesalers and/or manufacturers who provide retailers or their employees with food, beverages, transportation, tickets or admission fees, must keep "complete" records of such activities for two years.

This memorandum has been prepared by your local beer and wine distributors and The Washington Beer & Wine Wholesalers Association. It may be updated from time-to-time as laws and regulations change. If you have specific questions, please contact your local wholesalers.

Thank you for your continued business and your attention to these issues. If you have questions, please let us know.

Sincerely,

Distributing

Title

Distributing, Inc.

Title

Distributing

Title